

## National Aeronautics and Space Administration

1850.103–570

(b) The contracting officer shall insert a clause substantially as stated at 1852.247–73, Bills of Lading, in f.o.b. origin solicitations and contracts.

[62 FR 14028, Mar. 25, 1997, as amended at 67 FR 38908, June 6, 2002]

### Subpart 1847.70—Protection of the Florida Manatee

#### 1847.7001 Contract clause.

The contracting officer shall insert the clause at 1852.247–71, Protection of the Florida Manatee, in solicitations and contracts when deliveries or vessel operations, dockside work, or disassembly functions under the contract will involve use of waterways inhabited by manatees. The clause shall also be included in applicable subcontracts (including vendor deliveries).

## PART 1849—TERMINATION OF CONTRACTS

### Subpart 1849.5—Contract Termination Clauses

Sec.

1849.505 Other termination clause.

1849.505–70 NASA contract clause.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 14030, Mar. 25, 1997, unless otherwise noted.

### Subpart 1849.5—Contract Termination Clauses

#### 1849.505 Other termination clause.

#### 1849.505–70 NASA contract clause.

The contracting officer shall insert the clause at 1852.249–72, Termination (Utilities), in all solicitations and contracts for utilities services.

## PART 1850—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

### Subpart 1850.1—Extraordinary Contractual Actions

Sec.

1850.102 Delegation of and limitations of exercise of authority.

1850.102–2 Contract adjustment boards.

1850.103 Contract adjustments.

1850.103–5 Processing cases.

1850.103–570 Submission of request to the Contract Adjustment Board.

1850.103–6 Disposition.

1850.103–670 Implementation of the Contract Adjustment Board's decision.

1850.104 Residual powers.

1850.104–3 Special procedures for unusually hazardous or nuclear risks.

1850.104–370 Subcontractor indemnification requests.

1850.104–70 Lead NASA installation.

SOURCE: 76 FR 72328, Nov. 23, 2011, unless otherwise noted.

### Subpart 1850.1—Extraordinary Contractual Actions

#### 1850.102 Delegation of and limitations of exercise of authority.

#### 1850.102–2 Contract adjustment boards.

14 CFR part 1209, subpart 3, Contract Adjustment Board, establishes the Contract Adjustment Board (CAB) as the approving authority to consider and dispose of requests from NASA contractors for extraordinary contractual actions.

#### 1850.103 Contract adjustments.

#### 1850.103–5 Processing cases.

#### 1850.103–570 Submission of request to the Contract Adjustment Board.

(a) After investigating the facts and issues relevant to the contractor's request, the contracting officer shall forward the request to the Associate General Counsel for General Law, including in the forwarding letter—

(1) The nature of the case;  
(2) The recommended disposition;  
and,

(3) If contractual action is recommended, the contracting officer's opinion that the action will facilitate the national defense.

(b) The forwarding letter shall enclose the contractor's request, all supporting material submitted by the contractor, and any material the contracting officer has obtained while investigating the facts and issues relevant to the request. Any classified information in the material forwarded shall be so identified.

(c) Electronic submittal is preferred for unclassified material.

**1850.103-6 Disposition.****1850.103-670 Implementation of the Contract Adjustment Board's decision.**

(a) The contracting officer shall take action authorized in the CAB's decision.

(b) Immediately upon execution, including any required Headquarters approval, of a contract or contract modification or amendment implementing the CAB decision, the contracting officer shall forward a copy of the contractual document to the Associate General Counsel for General Law.

**1850.104 Residual powers.****1850.104-3 Special procedures for unusually hazardous or nuclear risks.**

(a) *Indemnification requests.* (1) Contractor indemnification requests must be submitted to the cognizant contracting officer for the contract for which the indemnification clause is requested. Contractors shall submit a single request and shall ensure that duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.

(2) The contractor shall also provide evidence, such as a certificate of insurance or other customary proof of insurance, that such insurance is either in force or is available and will be in force during the indemnified period.

(b) *Action on indemnification requests.* (1) If recommending approval, the contracting officer shall forward the required information to the Assistant Administrator for Procurement, Program Operations Division, along with the following:

(i) For contracts of five years duration or longer, a determination, with supporting rationale, whether the indemnification approval and insurance coverage and premiums should be reviewed for adequacy and continued validity at points in time within the extended contract period.

(ii) A recommended Memorandum of Decision. In addition to the applicable requirements of FAR 50.103-6, the Memorandum of Decision shall contain the following:

(A) The specific definition of the unusually hazardous risk to which the

contractor is exposed in the performance of the contract(s);

(B) A complete discussion of the contractor's financial protection program; and

(C) The extent to, and conditions under, which indemnification is being approved for subcontracts.

(d) If approving subcontractor indemnification, the contracting officer shall document the file with a memorandum for record addressing the items set forth in FAR 50.104-3(b) and include an analysis of the subcontractor's financial protection program. In performing this analysis, the contracting officer shall take into consideration the availability, cost, terms and conditions of insurance in relation to the unusually hazardous risk.

**1850.104-370 Subcontractor indemnification requests.**

Subcontractors shall submit requests for indemnification to the prime contractor and through higher tier subcontractor(s), as applicable. If the prime contractor agrees an indemnity clause should be flowed down to the subcontractor, the prime contractor shall forward its written request for subcontractor indemnification to the cognizant contracting officer for approval in accordance with FAR 50.104-3. The prime contractor's request shall provide information responsive to 1850.104-3, FAR 50.104-3, and FAR 50.104-3(b)(1)(i), (ii), (iv), (v), and (vii). The agreed upon definition of the unusually hazardous risk to be incorporated into the subcontract shall be the same as that incorporated in the prime contract.

**1850.104-70 Lead NASA installation.**

(a) Contractors applying for indemnification shall determine which NASA installation has the highest dollar amount of contracts for which indemnification is requested. The indemnification request should be submitted to the procurement officer for that installation, who will then designate a cognizant contracting officer. Contractors shall submit a single request and ensure duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.

(b) The receiving installation will become the lead installation and will remain so indefinitely. Lead installation designation may change to another installation if the affected procurement officers agree to the change. Should a change occur in the lead installation, all records related to indemnification of that contractor shall be transferred to the gaining installation.

## **PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS**

### **Subpart 1851.1—Contractor Use of Government Supply Sources**

Sec.

1851.102-70 Contractor acquisition of filing cabinets.

### **Subpart 1851.2—Contractor Use of Interagency Fleet Management System (IFMS) Vehicles**

1851.205 Contract clause.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 14032, Mar. 25, 1997, unless otherwise noted.

### **Subpart 1851.1—Contractor Use of Government Supply Sources**

#### **1851.102-70 Contractor acquisition of filing cabinets.**

(a) The Contractor officer must approve any planned contractor acquisition of filing cabinets whose title will vest in the Government. The contracting officer shall ensure that the contractor takes the following actions

before submitting a request for approval:

(1) Transfer inactive records to contractor storage areas;

(2) Dispose of unnecessary records in accordance with corporate procedures;

(3) Use less expensive shelf filing methods; and

(4) Take other actions to reduce the need for filing cabinets.

(b) If after taking the actions in paragraphs (a)(1) through (4) of this section, the contractor requires additional filing capacity, it shall submit for contracting officer approval a request to order filing cabinets. This request shall include a discussion of why sufficient additional filing capacity is necessary and shall address the results of the actions in paragraphs (a) (1) through (4) of this section. The contracting officer shall review the request in consultation with the Records Management Officer, the Property and Supply Officer, and the project officer, is appropriate.

[62 FR 14032, Mar. 25, 1997, as amended at 69 FR 44610, July 27, 2004]

### **Subpart 1851.2—Contractor Use of Interagency Fleet Management System (IFMS) Vehicles**

#### **1851.205 Contract clause.**

When the clause at FAR 52.251-2 is included in a solicitation or contract, also include the clause set forth at 1852.223-76.

[68 FR 43334, July 22, 2003]